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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/998,906	11/30/2001	Gerald M. Bachmeier	2944.01US01	4137

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EXAMINER

SAYALA, CHHAYA D

ART UNIT	PAPER NUMBER
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1761

DATE MAILED: 02/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/998,906

Applicant(s)

BACHMEIER, GERALD M.

Examiner

C. SAYALA

Art Unit

1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11-13 is/are allowed.
- 6) ☐ Claim(s) 1-4, 6-10, 14 and 16 is/are rejected.
- 7) ☒ Claim(s) 5 and 15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Skoch et al. (US Pat. 4265916).

See col 2, lines 54-64 and line 65 – col 3, line 15

3. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Schroeder et al. (US Pat. 4431675).

See col. 3, lines 1-11 and col. 5, lines 60-65.

4. Claims 1, 2, 4, 6 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Sawhill (US Pat. 4729896)

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The patent teaches a liquid component that is corn steep liquor or concentrated fermented corn extract (see col. 5, lines 1-10) and dried brewer's grains and distillers dried grains, etc. at col. 6, lines 40-45. The block is 250 lbs. (see col. 9, line 32).

5. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Donovan (US Pat. 4904486).

The patent teaches forming a feed block consisting of corn steep liquor and wet corn gluten. See entire disclosure at col. 4.

6. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Wright et al. (US Pat. 4349578).

The patent discloses feed blocks that contain corn steep liquor and condensed soy solubles. See col. 4, example 2.

7. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Theuninck et al. (US Pat. 4851244).

The patent discloses feed blocks that contain a liquid nutritive such as high fructose corn syrup (col. 2, lines 60-65) and dry ingredients such as wheat middlings and corn (see col. 4, lines 65-68).

8. Claims 1-4, 7-10, 14 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Thornberg US Pat. 5260089.

Thornberg teaches the formation of a feed block of 250 lb- capacity that is made from condensed distillers solubles and distillers dried grains that are mixed with 10-45% mineral supplements. The moisture content of CDS given as 50-70%. See col. 2, col. 4, line 4. The protein content of the product is given as least about 14%. See claims 10 and 12. With regard to instant claim 7, see claim 8. The percentage of the wet cake by itself is not expressly stated, but since the individual ingredients are the same as are their amounts, then this must be inherent.

9. Claims 1, 2, 4, 6 and 10 are rejected under 35 U.S.C. 102(e) as being anticipated by Harris et al. (US Patent 6168803).

A mixture of corn steep liquor and corn gluten feed is used to prepare a 250 lb. feed block. See col. 7, lines 35-37 and col. 8. Also col. 4, lines 1-20 and col. 5.

#### ***Prior Art of Record***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. SAYALA at Group 1761, telephone number (703) 308-3035.

The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3599.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is 703-308-0661.

A handwritten signature in cursive script, appearing to read "C. Sayala".

C. SAYALA  
Primary Examiner  
Group 1700.